

Notice of Allowability

Application No.

09/905,743

Examiner

Phuong Huynh

Applicant(s)

CHADWICK ET AL.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/22/04; 4/15/04.
2. ☒ The allowed claim(s) is/are 19-26,28 and 29.
3. ☒ The drawings filed on 3/22/04 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>6/17/04</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Renee S Polizotto on June 17, 2004.
3. **In the claims:**
 1. Claim 19, line 2, "having" has been replaced with -- comprising --
 2. Claim 20, line 1, "The antibody of claim 19 which" has been replaced with -- The isolated antibody or antigen binding fragment thereof of claim 19 wherein the antibody --
 3. Claim 21, line 1, "The antigen binding fragment of claim 19 which" has been replaced with -- The isolated antibody or antigen binding fragment thereof of claim 19 wherein the antigen binding fragment --
 4. Claim 23, line 1, "The antibody of claim 19 which" has been replaced with -- The isolated antibody or antigen binding fragment thereof of claim 19 wherein the antibody --
 5. Claim 24, line 1, "The antigen binding fragment of claim 19 which" has been replaced with -- The isolated antibody or antigen binding fragment thereof of claim 19 wherein the antigen binding fragment --
 6. Claim 28, line 1, -- thereof -- has been inserted immediately after "fragment"
 7. Claim 28, line 2, "having" has been replaced with -- comprising --
 8. Claim 28, lines 2-3, "or an immunologically reactive fragment of said polypeptide" has been deleted.
 9. Claim 29, line 1, -- thereof -- has been inserted immediately after "fragment"

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REASONS FOR ALLOWANCE

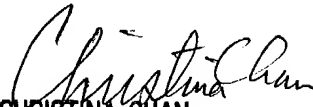
4. The following is an examiner's statement of reasons for allowance:
5. Claims 19-26, 28 and 29 are pending.
6. The declaration filed on 1/21/04 under 37 CFR 1.132 by Walter Funk is acknowledged. Said declaration is sufficient to overcome the Chadwick et al reference (Chadwick and Frischauf et al, Genomics 50: 357-367, 1998) since the invention disclosed therein was derived from the inventors Chadwick and Frischauf of this application, and is therefore, not the invention "by another".
7. Claims 19-26, 28 and 29 are allowed.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (571) 272-0846. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The IFW official Fax number is (703) 872-9306.
9. Any information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuong N. Huynh, Ph.D.

Patent Examiner

Technology Center 1600

June 22, 2004


CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600